

Supporting documentation was submitted including two duty status reports dated May 24 and June 14, 2007 from Dr. Jeffrey D. Yergler, a family practitioner. The May 24, 2007 report

stated that appellant had muscle strain and pain in the right shoulder due to an overuse injury and was not to lift more than 10 pounds. The June 7, 2007 report stated that appellant was able to return to regular work full time. In a June 7, 2007 magnetic resonance imaging (MRI) scan order form, completed by Dr. Yergler, appellant was diagnosed with neck pain and radiculopathy. A June 14, 2007 prescription note from the South Bend Sports Medical Clinic diagnosed muscle strain and shoulder pain. Physical therapy notes dated from June 27 through July 9, 2007 were received, signed by physical therapist, Stephen Leonard, and cosigned by Dr. Yergler. A June 21, 2007 physical therapy authorization request form listed shoulder and upper arm strain and sprain as well as joint pain as the diagnoses.

In a June 18, 2007 letter, the Office requested additional factual information and a physician's report from appellant to support his claim. Appellant responded in a July 16, 2007 letter explaining the history of his condition which began on May 18, 2007.

In June 7 and 14, 2007 office visit notes, Dr. Yergler noted that appellant complained of right shoulder pain and burning sensations from his neck into his hand. On June 7, 2007 Dr. Yergler reported that appellant had symptoms of paraesthesias down his arm in the C7 distribution. On June 14, 2007, after an MRI scan of the cervical spine, Dr. Yergler stated that appellant's pain appeared to be mostly parascapular muscle pain.

On July 23, 2007 the Office denied appellant's claim finding that the medical evidence did not establish that the claimed medical condition was causally related to the established work-related events.

### **LEGAL PRECEDENT**

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>1</sup>

The medical opinion needed to establish an occupational disease claim must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>2</sup>

The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the condition and employment. Neither the fact that the condition became apparent during a period of employment, nor

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<sup>1</sup> *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB \_\_\_\_ (Docket No. 05-715, issued October 6, 2005).

<sup>2</sup> *Donald W. Wenzel*, 56 ECAB 390 (2005).

employee's belief that the condition was caused or aggravated by employment conditions is sufficient to establish causal relationship.<sup>3</sup>

### **ANALYSIS**

Appellant alleged that his right shoulder condition is causally related to his federal employment, specifically repetitive use of his right arm and carrying a satchel on his right shoulder. The Office accepted that appellant uses his right arm to handle mail and carries his satchel on his right shoulder. The issue is whether the medical evidence is sufficient to establish that appellant's shoulder condition is causally related to his employment.

The medical evidence submitted is insufficient to establish that appellant's conditions are related to his employment. The only report to offer any opinion as to the cause of appellant's conditions was the May 24, 2007 duty status report. But this report only stated that the injury was an overuse injury. This statement alone is not enough. While appellant's muscle strain may have been caused by an overuse injury it is unclear whether such overuse was employment related. Medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>4</sup> In his reports Dr. Yergler diagnosed appellant with radiculopathy and muscle strain but did not offer an opinion as to the cause of these conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>5</sup>

While appellant believes his right shoulder conditions are related to his employment the mere belief that the disease or condition was caused by employment factors is not sufficient to establish a causal relationship between the two.<sup>6</sup> The Board finds that appellant has submitted insufficient medical evidence to establish that he sustained a condition in the performance of duty.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

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<sup>3</sup> *Alberta S. Williamson*, 47 ECAB 569 (1996).

<sup>4</sup> *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>5</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>6</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 23, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 19, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board